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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,143	11/07/2001	Sam F. Liprie	INE-0051	8647

23413 7590 04/07/2006

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EXAMINER
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LACYK, JOHN P

ART UNIT	PAPER NUMBER
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3735

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/010,143

**Applicant(s)**

LIPRIE ET AL.

**Examiner**

John P. Lacyk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-16 and 19-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4-9,14-16,19-24,29 and 30 is/are allowed.
- 6) ☒ Claim(s) 10-13,25-28 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. Applicant is advised that the Notice of Allowance mailed 10/20/03 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

2. Prosecution on the merits of this application is reopened on claims 10-13, 25-28 and 31 considered unpatentable for the reasons indicated below:

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liping (5,344,383) or Van't Hooft et al (4,881,937) in view of Parsons et al (EP0012004).

Liping and Van't Hooft et al disclose the claimed device except for the use of a manually operable cranking mechanism to rotate the drum and extend the source wire out of the shield capsule and one or more visual indicators. Parsons et al discloses a similar device for extending a radioactive material out of a shielded enclosure and teaches that it is known to use a manual crank (7) to manipulate the radioactive material. Therefore a modification of either Liping or Van't Hooft et al to include a manual crank would have

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been obvious in view of the teachings of Parsons et al. Parsons et al also teaches (page 5, lines 5-7) the use of a revolution counter with indicia (39, 42) visible through a window (44), such a revolution counter would inherently provide an indication of the distance the wire has traveled, and also would provide a indication of whether the drum is active and thus which drum is active in a two drum afterloader system as shown in the primary references. Thus it would have been obvious to use such a known visual indicator on one or each drum of either primary references for the advantages of keeping track of how much wire is used by counting the revolutions of withdrawn wire from the reel.

5. Claims 10-11 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liping or Van't Hooft et al in view of Parsons et al as applied to claim 31 above, and further in view of Thornton et al (6,048,300).

The prior art, as discussed above, discloses the claimed device except for the use of a stop mechanism to stop or halt the rotation of the drum after a predetermined amount of rotation of the drum. Thornton et al discloses a similar afterloader device and teaches (column 8, lines 48-54; column 10, lines 5-30) the use of a limit stop mechanism (126) for limiting the number or revolutions or rotations of the drum. As taught in column 10, the stop positions for advancing and retracting the wire can be adjusted to any desired length. Therefore a modification of Liping or Van't Hooft et al to include such a stop mechanism would have been obvious in view of the teachings of Thornton et al to stop the rotation of the drum when the desired length has been reached. With respect to

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claims 11 and 26, column 10, lines 17-30 teaches limiting the rotation in one direction or the other and discloses stop for both advancing and retracting the wire. Therefore to include one stop for limiting a first direction and a second stop for limiting in a second direction would have been obvious in view of Thornton et al which shows that it is well known to limit the movement in either or both directions.

6. Claims 12-13 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liping or Van't Hooft et al in view of Parsons et al as applied to claim 31 above, and further in view of Liprie (5,800,333).

The prior art, as discussed above, discloses the claimed device except for the use of a drum lock to prevent movement of the drum. Liprie teaches (column 9, lines 28-37) the use of a mechanical lock that when engaged will not allow for further rotation until a signal is sent. Therefore a modification to include such a mechanical lock would have been obvious since this would allow for better control of the device by allowing the rotation to be stopped and locked when certain limitations are reached, such as, for one example only, when the device is properly positioned to prevent any movement until treatment is completed.

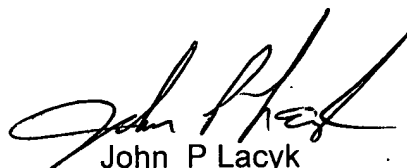
7. Claims 1, 4-9, 14-16, 19-24, 29-30 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Lacyk whose telephone number is 571-272-4728. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam can be reached on 571-272-4737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P Lacyk  
Primary Examiner  
Art Unit 3735

J.P. Lacyk